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14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 GERALD ARMSTRONG,

CASE NO. CV-N-97-00670 ECR (RAM)

17 Plaintiff,

**DEFENDANTS' REPLY ON THEIR  
MOTION FOR ATTORNEYS' FEES**

18 vs.

19 CHURCH OF SCIENTOLOGY  
INTERNATIONAL, a California corporation;  
20 and the RELIGIOUS TECHNOLOGY  
CENTER, a California corporation,

21 Defendants.  
22  
23

24 On November 25, 1998, plaintiff filed by hand, via deposit into this Court's drop box, its  
25 Opposition to Defendants' Motion for Attorneys' Fees. Plaintiff did not serve that opposition on  
26 defendants' counsel on that same date, but rather, delayed one week until December 2, 1998. Defendants  
27 initially learned of the opposition from a search early last week of the clerk's file.

28 Plaintiff's failure to properly serve his opposition is, in and of itself, grounds to strike it, ignore it.




1 and grant defendants' motion on default. This Court is well aware of plaintiff's long history of failing to  
2 make timely filings and service of same. The filing of a paper by hand with the clerk's office while not  
3 simultaneously serving a copy by hand on defendants' counsel one block away, is yet another example of  
4 plaintiff's practices. Plaintiff's latest misconduct respecting the failure to properly serve its opposition  
5 should not, therefore, go unnoticed or unpunished.

6 Further, plaintiff offers no substantive opposition to defendants' Motion for Attorneys' Fees. As  
7 near as can be determined, the entirety of plaintiff's opposition is his erroneous argument that defendants  
8 did not comply with Local Rule 54-16. Beyond that, plaintiff offers nothing in opposition to defendants'  
9 motion. No excuse, no justification, not even an apology to this Court for plaintiff's conduct which has  
10 given rise to defendants' motion. In short, plaintiff has *sub silentio* conceded the substantive merit of  
11 defendants' motion.

12 Finally, plaintiff's contention of non-compliance with Local Court Rule 54-16(b) for failure to  
13 submit proof of the amount of attorneys' fees they seek, is entirely misplaced. LR 54-16(b) allows for the  
14 filing of documentation supporting the quantification of the attorneys' fees to a later date "upon Order of  
15 the Court." Defendants timely sought leave of the Court to submit declarations and exhibits relating to the  
16 amount of attorneys' fees and expenses within ten (10) days of the Court's ruling on the Motion for  
17 Attorneys' Fees. (See Docket # 74). In short, plaintiff's claim of lack of compliance is flat out wrong.

18 Based on all of the foregoing, defendants respectfully request that their motion be granted and that  
19 they be permitted ten business days to file proof of the quantification of their attorneys' fees following  
20 receipt of an Order of this Court granting their motion.

21 DATED this 7<sup>th</sup> day of December, 1998.

22   
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PROOF OF SERVICE BY MAIL

I, Mary Anna Singer, declare:

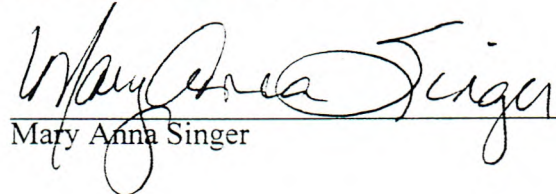
I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Hale Lane Peek Dennison Howard and Anderson. My business address is 100 W. Liberty Street, Tenth Floor, Reno, Nevada 89501. I am over the age of 18 years and not a party to this action.

I am readily familiar with Hale Lane Peek Dennison Howard and Anderson's practice for collection and processing of its outgoing mail with the United States Postal Service. Such practice in the ordinary course of business provides for the deposit of all outgoing mail with the United States Postal Service on the same day it is collected and processed for mailing.

On December 7, 1998, I served the foregoing **DEFENDANTS' REPLY ON THEIR MOTION FOR ATTORNEYS' FEES** by placing a true copy thereof in Hale Lane Peek Dennison Howard and Anderson's outgoing mail in a sealed envelope, addressed as follows:

George W. Abbott, Esquire  
George W. Abbott, Chtd.  
2245 B Meridian Boulevard  
P.O. Box 98  
Minden, NV 89423

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on December 7, 1998.

  
Mary Anna Singer